

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

Emergency Amendment of Chapter 2.5 (commencing with Section 9500), Division 4, Title 9, California Code of Regulations

DRUG TESTING

Final Statement of Reasons

STATEMENT OF NECESSITY

This emergency regulatory action amends Chapter 2.5 (commencing with Section 9500), Division 4, Title 9 of the California Code of Regulations (CCR), by establishing a distribution formula and standards for receiving drug testing funds provided under the Substance Abuse Treatment and Testing Accountability (SATTA) Program.

These regulations are needed to implement, interpret, and make specific the provisions of the Substance Abuse Treatment and Testing Accountability (SATTA) Program as enacted by Senate Bill (SB) 223 (Burton), Chapter 721, Statutes of 2001, which was effective October 11, 2001. The statute provided \$8.4 million for distribution to counties to conduct drug testing of clients under the Substance Abuse and Crime Prevention Act of 2000 (SACPA). The counties may also use the funds for other purposes consistent with the federal law under which the funds are provided. Under the new statute the Department of Alcohol and Drug Programs (ADP) must establish a distribution formula for allocation to the counties and administer counties' use of the funds. To receive funds, counties must submit to ADP a plan describing their process for testing.

The necessity for each amendment is described in the annotated text of regulatory changes attached to the initial statement of reasons. That document is contained in the rulemaking file. It is hereby incorporated by reference since the Department has made no changes to the regulations since the start of the 45-day public comment period.

PUBLIC COMMENT PERIOD

On July 12, 2002, the Office of Administrative Law printed a notice of rulemaking and public comment period for the subject emergency regulatory action. On the same date the Department mailed out copies of the public notice, statement of reasons, and text of the emergency regulations to all county administrators, all county lead agencies for implementation of SACPA, and all other individuals known to be interested in implementation of SB 223.

PUBLIC COMMENTS

The Department did not receive any requests for public hearing or written comments regarding the emergency regulations.

POSTHEARING CHANGES

The Department has not made any substantive changes to the subject regulations since they were filed with the Secretary of State on an emergency basis, prior to the start of the 45-day public comment period. Thus no 15-day public comment period is required.

FISCAL IMPACT STATEMENTS:

The Department does not anticipate any cost associated with implementation of these regulations because the regulations do not expand the scope of the implementing statute. All costs are associated with implementation of the statute rather than with implementation of the regulations themselves.

Costs or Savings in Federal Funding to the State: No costs or savings are anticipated.

Costs or Savings to Any State Agency: No costs or savings are anticipated.

Costs or Savings to Any Local Agency or School District: No costs or savings are anticipated.

Nondiscretionary Costs or Savings Imposed on Local Agencies: This regulatory action will not result in any nondiscretionary costs or savings to local agencies.

Local Mandate Determination: The Department has determined that this regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

Cost Impacts on Representative Private Persons or Businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Business: The Department does not anticipate any adverse economic impact on business because these regulations do not expand the scope of the implementing statutes.

The Department has made an initial determination that this regulatory action will not have a significant statewide adverse economic impact directly affecting businesses. This regulatory action will not affect the ability of California businesses to compete with businesses in other states. This regulatory action will not affect the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Effect on Small Businesses: The proposed regulatory action will affect small businesses because many entities providing services pursuant to the Act are small businesses as defined in Government Code Section 11342.610. The Department has determined that this regulation will result in no cost or savings to small businesses because the regulations do not expand the scope of the implementing statutes.

Effect on Housing Costs: This regulatory action will not effect housing costs in any way.

LOCAL MANDATE DETERMINATION:

The Department has determined that this proposed amendment will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

CONSIDERATION OF ALTERNATIVES:

Pursuant to Section 11346.9(a)(4) of the Government Code, the Department has determined that no alternative would be more effective in carrying out the purpose for which this regulatory action was taken. The Department has also determined that no alternative would be as effective and less burdensome to affected private persons than the regulatory action taken. No alternatives were presented during the public comment period.

CADPAAC VOTE

Health and Safety Code (HSC) Sections 11835 and 11864 require the Department to present its regulations to the county alcohol and drug program administrators for their vote. Both statutes require the Department to give the administrators 45 days advance notice of the meeting at which the regulations will be presented for their vote. On September 1, 2002, Toni Moore, president of the County Alcohol and Drug Program Administrators Association of California (CADPAAC), verbally waived the 45-day advance notice requirement of HSC Sections 11835 and 11864 so that CADPAAC could vote on the subject regulatory action at its September meeting (the last regularly scheduled CADPAAC meeting before the end of the calendar year). A copy of an electronically transmitted document confirming CADPAAC's waiver is contained in the rulemaking file. On September 1, the Department mailed a written notice and a copy of the subject regulations to all county alcohol and drug program administrators. The Department presented the subject regulations to CADPAAC for its vote on September 27, 2002. All 26 county alcohol and drug program administrators present at the meeting voted to approve the regulations without further modification; none voted to disapprove the regulations. Accordingly the Department will submit the regulations to the Office of Administrative Law for filing with the Secretary of State.
